

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3584 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VANRAJSINH LALUBHA JADEJA

Versus

JAIL SUPERINTENDENT

Appearance:

MR PM DAVE for Petitioner

MR UR BHATT, AGP, for the respondents

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 23/07/96

ORAL JUDGEMENT

Petitioner Vanrajsinh Lalubha Jadeja has filed the present petition challenging the legality and validity of the order of his detention dated 22-2-1996 passed under section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985, by the District Magistrate, Kutch at Bhuj , who, after considering a single criminal case registered against the detenu and considering the statements of 17 witnesses, has recorded a finding that the detenu is a " dangerous person :

within the meaning of section 2 (c) of the said Act and, therefore, with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it was necessary to pass the order of detention against the detenu and, therefore, the impugned order is passed, which is under challenge in the present petition.

Since this petition is required to be allowed on the first contention advanced on behalf of the petitioner by Mr.P.M.Dave, learned Advocate, it is not necessary to refer to and deal with the other contentions raised by him. Mr. Dave has submitted that the subjective satisfaction recorded by the detaining authority branding the detenu as a dangerous person is not genuine as the detaining authority has relied upon only one criminal case registered against the detenu by Rapar Police Station vide C.R.No.88/95, which is at the investigation stage.

I find substance in the submission of Mr. Dave. Section 2 (c) of the said Act defines "dangerous person" to mean a person who either by himself or as a member or a leader of a gang habitually commits or attempts to commit or abets the commission of any of the offences punishable under Chapters XVI and XVII of the Indian Penal Code or any of the offences punishable under Chapter V of the Arms Act, 1955. In view of the definition of "dangerous person", it is necessary that the person is a habitual offender or is attempting to commit or abets the commission of any of the offences punishable under Chapters XVI and XVII of the IPC or under Chapter V of the Arms Act. In the instant case, as stated above, only one case is registered against the detenu for the offences punishable under sections 323, 504, 506 (2) of the Indian Penal Code and section 135 of the Bombay Police Act. This case is also at the investigation stage. In view of this, the detenu cannot be branded as a habitual offender attracting the requirement of "dangerous person". In view of this, the petition is required to be allowed by holding that the continued detention of the detenu is vitiated.

In the result, this petition is allowed. The order of detention dated 22-2-96 is quashed and set aside. The detenu Vanrajsinh Lalubha Jadeja is directed to be set at liberty forthwith if his detention is not required for any other purpose. Rule is made absolute with no order as to costs.

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